REMARKS

Claims 1-30 are pending. By this amendment, claims 1, 10, 12, 13, 16, 20, 21, and 24 are amended to more precisely recite the novel features of the present application. No new matter is introduced. Reconsideration and issuance of a Notice of Allowance are respectfully requested in view of the preceding amendments and following remarks.

Claim Rejections Under 35 U.S.C. § 112

On page 3 the Office Action rejects claims 1-30 under 35 U.S.C. § 112, second paragraph. This rejection is respectfully traversed.

In rejecting claims 1-30 under 35 U.S.C. §112, second paragraph, the Examiner states that the phrase "allowing payment-free transfer of [active] assets from one iCOD computer to another iCOD computer within the method" is not supported in the specification. The Examiner's attention is directed to page 3, lines 16-19: "The iCOD customer will not need to pay extra for activating inactive iCOD assets in one iCOD computer while deactivating active assets of similar asset classes in another iCOD computer but rather is able to 'shift' iCOD assets from one iCOD computer to another iCOD computer." Applicant contends that at least this part of the specification completely supports the claim language at issue and quoted above.

The Examiner then asks two questions. First "it's not to whom the notification...is provided to?" Applicant cannot tell if this is a basis for rejecting the claims. However, the notification can be provided to either the iCOD computer user or to the iCOD computer vendor. See page 5, lines 5-19, for example. The fact that the claims do not specify who is to receive the notification does not make the claims indefinite.

The Examiner's second question is "what happens the scope of the invention if the information about the sum of assets...is not different from a previously specified total...?" The claims recite the notification being provided if the sum of assets differs from a previously specified total. Clearly, if there is no difference, there is no notification.

In view of the above comments and in view of the amendments to claims 1, 10, 16, and 24, Applicant requests withdrawal of the rejection of claims 1-30 under 35 U.S.C. §112, second paragraph.

Claim Rejection Under 35 U.S.C. § 103

On page 5, the Office Action rejects claims 1-30 under 35 U.S.C. § 103(a) over applicant admitted prior art (AAPA) in view of Article 1999 - Hewlett-Packard: HP's new

iCOD solutions offer immediate additional server capacity at low risk (Article 1999). This rejection is respectfully traversed.

To establish a *prima facie* case of obviousness ... the prior art reference (or references when combined) must teach or suggest all of the claim limitations. *In re Vaeck,* 947 F.2d 488 (Fed. Cir. 1991) and *MPEP* § 2142. In order to combine references, the following tenets of patent law must be adhered to: (A) The claimed invention must be considered as a whole; (B) The references must be considered as a whole and must suggest the desirability and thus the obviousness of making the combination; (C) The references must be viewed without the benefit of impermissible hindsight vision afforded by the claimed invention; and (D) Reasonable expectation of success is the standard with which obviousness is determined. *Hodosh v. Block Drug Co., Inc.*, 786 F.2d 1136, 1143 n.5 (Fed. Cir. 1986).

Independent claims 1, 10, 16 and 24 are directed to a system (claim 1) and method (claims 10, 16 and 24) for monitoring assets belonging to at least one asset class over a network. The system and method allow payment-free transfer of monitored assets from one iCOD computer to another iCOD computer within the network.

Article 1999 is merely a marketing press release discussing in vague terms about future on-demand programs without specifically teaching anything about these future programs. Furthermore, in the section marked as #5, Article 1999 merely mentions the term "HyperPlex clusters" as an example of "server components," indicating that HyperPlex clusters are equivalent to assets (e.g., CPU, memory, etc.) described in the present application, and not "iCOD computers." Therefore, one skilled in the art reading the Article 1999 would fairly interpret the press release as: a customer could purchase multiple systems or multiple HyperPlex clusters and only pay for the systems or clusters that they actually use. However, one skilled in the art would not fairly assume that Article 1999 teaches payment-free transfer of monitored assets between iCOD computers over a network.

The background section of the application specifically states that prior art iCOD computer systems do not permit the kind of asset transfer recited in independent claims 1, 10, 16, and 24. See page 2, lines 7-11: "Using the current iCOD system, the iCOD customer who has more active CPUs than necessary on one iCOD computer but insufficient CPUs on a second iCOD computer cannot shift the 'excess' CPUs from the first iCOD computer to the second iCOD computer. Rather, this iCOD customer must pay to activate additional CPUs on the second iCOD computer."

Finally, in rejecting the claims, the Examiner states that the claim element "assets may be either inactive or active" makes "what-ever limitations followed this 'optional'

limitations...[of] non-patentable weight." First, this element has been removed from the independent claims. Second, the element refers only to the fact that an asset only can be in one of two states; either active or inactive. This two-state condition has nothing to do with the element that follows, namely the payment-free transfer of an asset.

In contrast to the applied prior art, claim 1 recites: "a plurality of instant capacity on demand (iCOD) computers, allowing payment-free transfer of assets from one iCOD computer to another iCOD computer within the network," (emphasis added). As noted, AAPA and Article 1999, individually and in combination, do not disclose or suggest this feature. Accordingly, amended claim 1 is allowable over AAPA and Article 1999.

Claims 2-9 are allowable at least because they depend from allowable claim 1 and for the additional features they recite.

With respect to claim 10, for at least the same reasons as discussed with respect to claim 1, AAPA and Article 1999, individually and in combination, do not disclose or suggest "receiving data about a quantity of assets of the at least one asset class for each iCOD computer on the network...allowing payment-free transfer of active assets from one iCOD computer to another iCOD computer within the network," as recited in amended claim 10. Therefore, claim 10 is allowable.

Claims 11-15 are allowable at least because they depend from allowable claim 10 and for the additional features they recite.

With respect to claim 16, for at least the same reasons as discussed with respect to claim 1, AAPA and Article 1999, individually and in combination, do not disclose or suggest "measuring a quantity of assets of at least one asset class from each of the plurality of iCOD computers on the network ... allowing payment-free transfer of active assets from one iCOD computer to another iCOD computer within the network," as recited in amended claim 16. Therefore, claim 16 is allowable.

Claims 17-23 are allowable at least because they depend from allowable claim 16 and for the additional features they recite.

With respect to claim 24, for at least the same reasons as discussed with respect to claim 1, AAPA and Article 1999, individually and in combination, do not disclose or suggest "grouping the plurality of iCOD computers into at least one cluster, wherein the at least one cluster includes at least one iCOD computer, ... allowing payment-free transfer of active assets from one iCOD computer to another iCOD computer within the network," as recited in amended claim 24. Therefore, claim 24 is allowable.

Claims 25-30 are allowable at least because they depend from allowable claim 24 and for the additional features they recite.

Withdrawal of the rejection of claims 1-30 under 35 U.S.C. §103(a) is respectfully requested.

In view of the above remarks, Applicant respectfully submits that the application is in condition for allowance. Prompt examination and allowance are respectfully requested.

Should the Examiner believe that anything further is desired in order to place the application in even better condition for allowance, the Examiner is invited to contact Applicant's undersigned representative at the telephone number listed below.

Respectfully submitted,

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